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SEP 22 2006

Atty Dkt. No.: 10011076-1  
USSN: 10/087,035

**REMARKS**

In view of the above amendments and the following remarks, the Examiner is requested to allow claims 1-11, 22, 27, 28, 31-37 and 41-44, as well as newly presented Claims 45-49, the only claims pending and under examination in this application.

Claim 9 has been amended to recite that the visual display includes at least one customer selected array design parameter. Support for this amendment can be found in the specification, particularly at paragraph [0091]. New Claims 45-49, reciting curation, have been added. Support for these claims can be found in the specification and drawings, particularly at paragraph [0088].

No new matter has been added.

***Claim Rejections – 35 U.S.C. § 112, second paragraph***

Claims 9-11 were rejected under 35 U.S.C. § 112, second paragraph for alleged indefiniteness. This rejection is respectfully traversed.

The Examiner asserted that it is unclear to what the word *that* in Claim 9 refers. Present Claim 9 recites that it is the visual display that includes at least one customer selected array design parameter.

Withdrawal of this rejection is respectfully requested.

***Claim Rejections – 35 U.S.C. § 102***

Claims 1-11, 22, 27, 28, 31-37, and 41-44 were rejected under 35 U.S.C. § 102(e)(1) as allegedly being anticipated by Zhou et al. (US Patent Application Publication No. 2003/0120432) (hereinafter "Zhou"). This rejection is respectfully traversed.

The Examiner has relied upon "priority applications" for the effective date of Zhou. The Examiner is respectfully requested to identify specifically, and to provide copies of, the priority documents relied upon, as it is unclear to Applicant whether all

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or some and which of the many priority documents listed in Zhou have been relied upon.

A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. *Verdegaal Bros. v. Union Oil of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

Zhou discloses user-selected identifiers of potential probes. The Examiner has drawn attention to the abstract of Zhou for such disclosure.

However, an array design parameter as recited in Applicant's claims is not related to identifying probes. Array design parameters, as the term implies, are usable for creating a design for an array and include, *inter alia*, layout parameters such as the number and types of features per array and the size of the array.

Therefore, array design parameters are distinguishable from probe-related parameters that include, *inter alia*, probe selection, probe length(s), and the number of probes per gene versus replicate probes. See, for example, paragraph [0067] of Applicant's specification.

As such, Zhou discloses a probe-related parameter and not an array design parameter. Accordingly, as Zhou does not identically disclose each and every element of Applicant's claims, there is no anticipation.

Withdrawal of this rejection is respectfully requested.

Finally new Claims 45-49 are patentable for at least the reasons provided above.

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**CONCLUSION**

Applicant submits that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this application, please telephone Mike Beck at (408) 553-3864.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-1078, order number 10011076-1.

Respectfully submitted,

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